



APPLICATION ACCEPTED: January 4, 2013
BOARD OF ZONING APPEALS: April 3, 2013
TIME: 9:00 a.m.

County of Fairfax, Virginia

March 27, 2013

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2013-LE-004 CONCURRENT WITH VC 2013-LE-001

LEE DISTRICT

APPLICANT/OWNER: Sally A. Coler

SUBDIVISION: Rose Hill Farm

STREET ADDRESS: 6401 Hayfield Place, Alexandria, 22310

TAX MAP REFERENCE: 82-3 ((14)) (K) 23

LOT SIZE: 19,527 square feet

ZONING DISTRICT: R-3

ZONING ORDINANCE PROVISIONS: 8-918 & 18-401

SPECIAL PERMIT PROPOSAL: To permit an accessory dwelling unit within an existing dwelling.

VARIANCE PROPOSAL: To permit an accessory structure to remain in the front yard of a lot containing 36,000 square feet or less.

STAFF RECOMMENDATION: Staff recommends approval of SP 2013-LE-004 for the addition with adoption of the proposed development conditions contained in Appendix 1.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicants/owners from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

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Rebecca Homer

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals. A copy of the BZA's Resolution setting forth this decision will be mailed within five (5) days after the decision becomes final.

The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035-5505.**



Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit

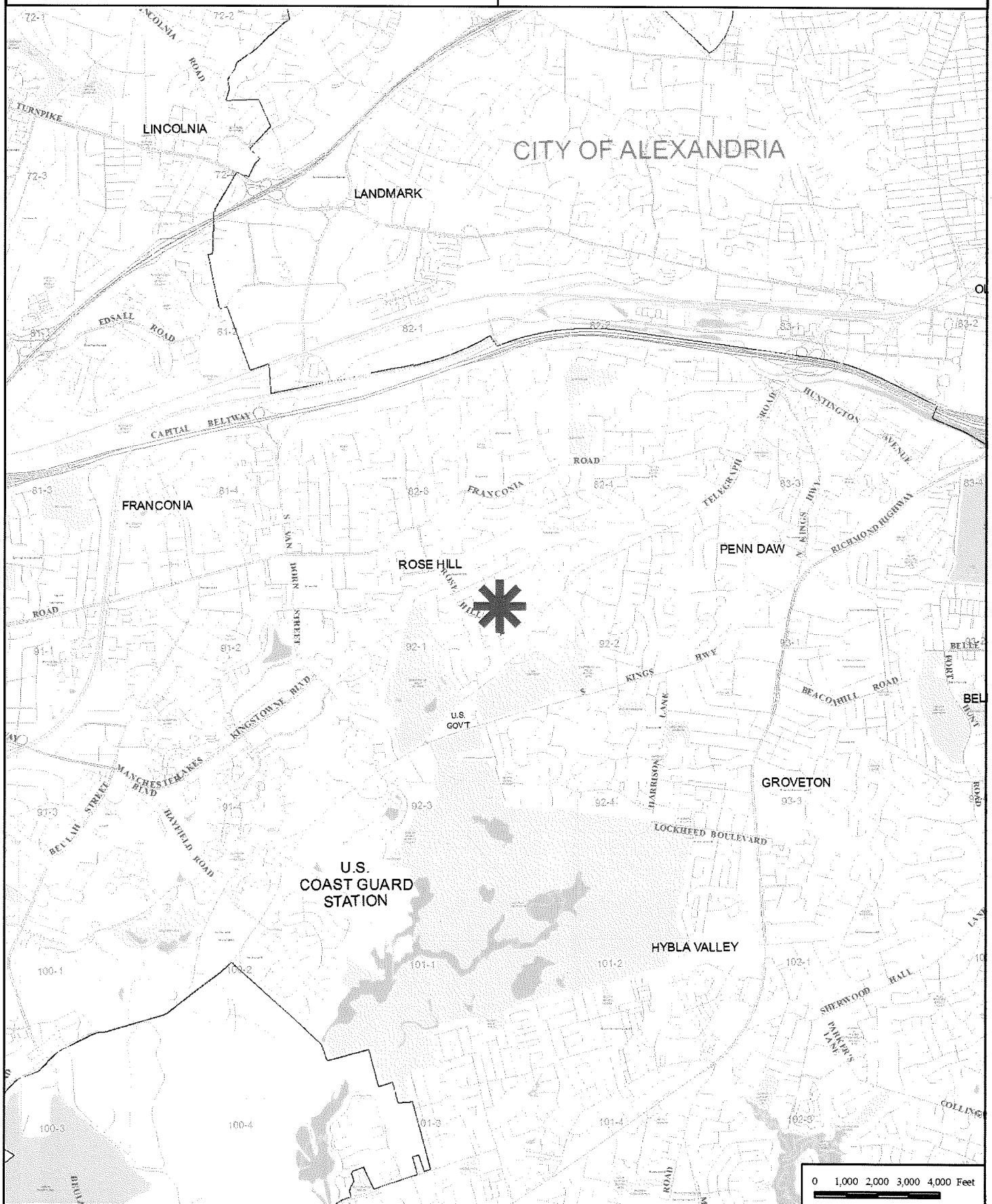
SP 2013-LE-004

SALLY COLER

Variance Application

VC 2013-LE-001

SALLY COLER



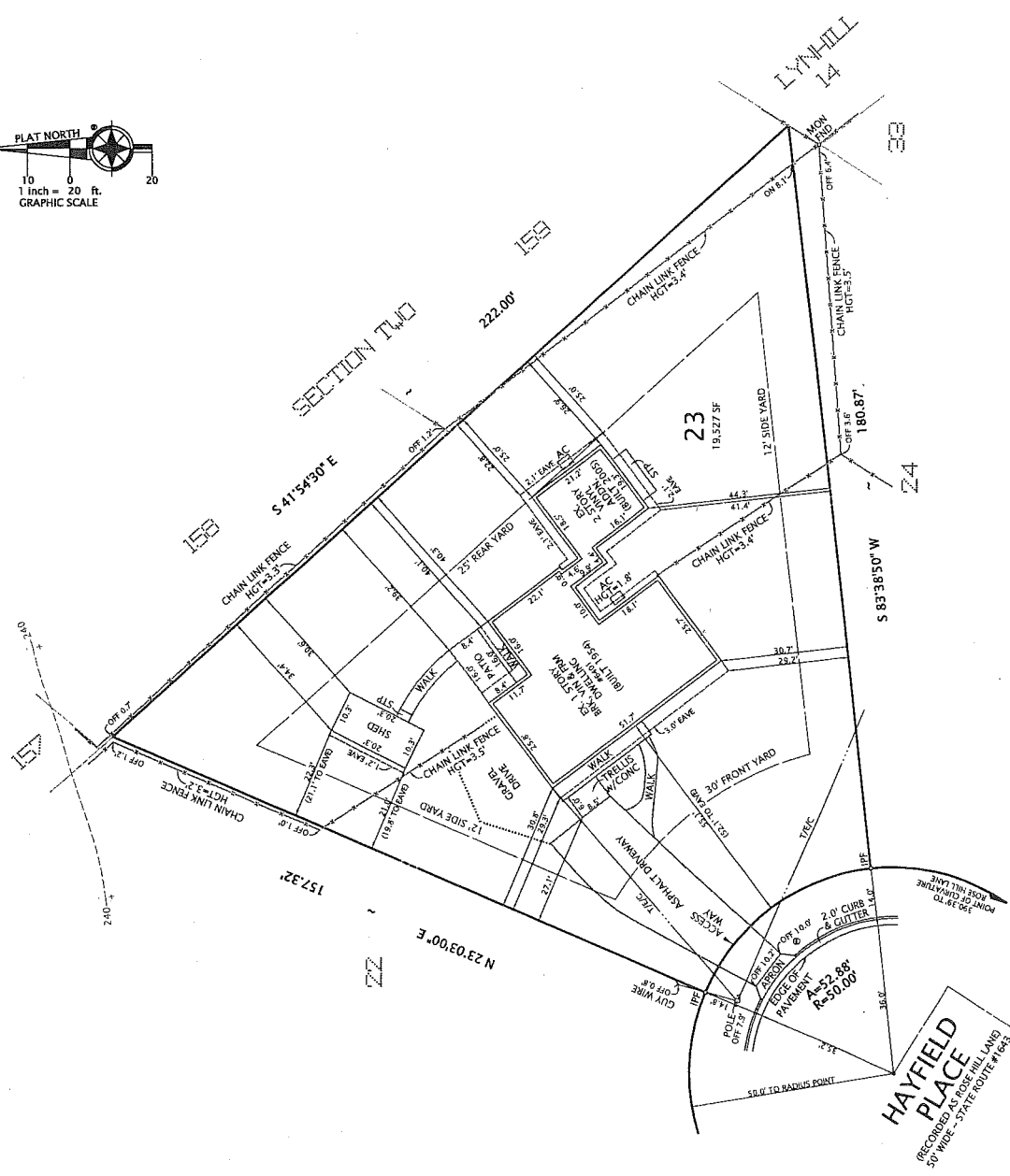
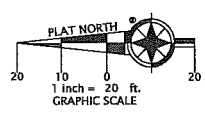
SALLY COLER

SALLY COLER



NOTES:

1. TAX MAP: 82-3-0014-0K-0023
2. ZONE: R-3 (RESIDENTIAL 3 DU/AC)
3. LOT AREA: 19,527 SF (0.4483 ACRE)
4. REQUIRED YARDS:
FRONT: = 30.0 FEET
SIDE: = 12.0 FEET
REAR: = 25.0 FEET
5. HEIGHTS:
EX. DWELLING = 12.1 FEET
EX. SHED = 12.7 FEET
EX. 2 STORY ADDN. = 19.0 FEET
FENCES = AS NOTED
TRELLIS = 7.9 FEET
6. THIS PROPERTY IS SERVED BY PUBLIC WATER AND SEWER.
7. THERE IS NO EVIDENCE OF GRAVE SITES OR BURIAL GROUNDS ON THIS PROPERTY.
8. ALL IMPROVEMENTS SHOWN ON THIS PLAT ARE EXISTING AND WILL REMAIN.
9. THE SURVEYOR IS NOT AWARE OF ANY UTILITY EASEMENTS 25 FEET IN WIDTH OR GREATER AFFECTING THIS PROPERTY.
10. TOPOGRAPHY DELINEATED HEREON WAS TAKEN FROM AVAILABLE RECORDS, IS SHOWN AT 5' INTERVALS, AND IS AERIAL.
11. THERE ARE NO FLOODPLAINS OR RESOURCE PROTECTION AREAS ON THIS PROPERTY.
12. EX. AREAS
EX. 1ST FLOOR = 1,680 SF
PROP. ACCESSORY DWELLING UNIT 1ST FLOOR = 462 SF
PROP. ACCESSORY DWELLING UNIT 2ND FLOOR = 410 SF
EX. GROSS FLOOR AREA = 2,552 SF
EX. FLOOR AREA RATIO: EX. GFA (2552) / LOT AREA (19527) = 0.13
- PRINCIPAL STRUCTURE = 2,552 SF
(EX. 1 STORY DWELLING + PROP. 2 STORY ACCESSORY DWELLING UNIT)
PROP. 2 STORY ACCESSORY DWELLING UNIT = 872 SF
(872) / (2552) = 0.3417
13. THERE IS NO PROPOSED CONSTRUCTION ASSOCIATED WITH THIS APPLICATION.
14. THERE ARE NO TRAILS ON THE PROPERTY REQUIRED BY THE COMPREHENSIVE PLAN.



NOT TO SCALE

PLAT
SHOWING THE IMPROVEMENTS ON
LOT 23, BLOCK K, SECTION ONE
ROSE HILL FARM
(DEED BOOK 1199, PAGE 150)
FAIRFAX COUNTY, VIRGINIA
LEE DISTRICT
SCALE: 1" = 20'
SEPTEMBER 25, 2012

<p>I HEREBY CERTIFY THAT THE POSITIONS OF ALL THE EXISTING IMPROVEMENTS HAVE BEEN CORRECTLY LOCATED AND THE SURVEY AND LINES SHOWN THERE ARE NO VIOLATE ENCROACHMENTS AS OF THIS DATE.</p> <p>THIS PLAT IS SUBJECT TO RESTRICTIONS OF RECORD. A TITLE REPORT WAS NOT FURNISHED. NO CORNER MARKERS SET.</p>	<p>CASE NAME: SALLY A. COLE LYNNE STROBEL</p>
	<p>COMMONWEALTH OF VIRGINIA 09/25/2012 GEORGE M. QUINN LICENSE NO. 2069 LAND SURVEYOR <i>George M. Quinn</i></p>

DOMINION SURVEYS, INC.
8608-H PEAR TREE VILLAGE COURT
ALEXANDRIA, VA 22309
TEL: 703-619-5555
FAX: 703-799-6412

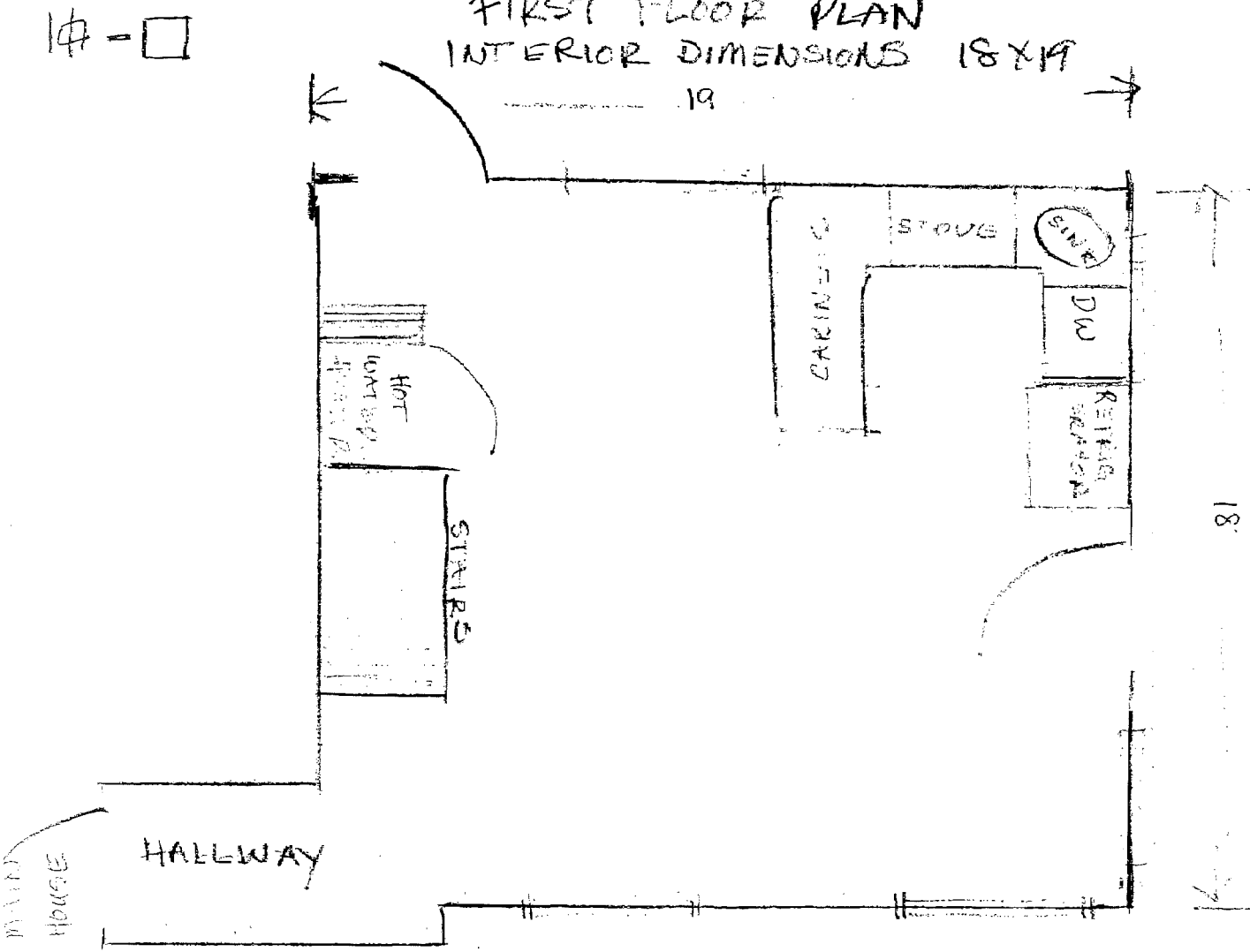
11/6/12

Ms Sally Coler
6401 Hayfield Pl
Alexandria, VA 22310-2818

ADDITION
FIRST FLOOR PLAN
INTERIOR DIMENSIONS 18x19

19

18



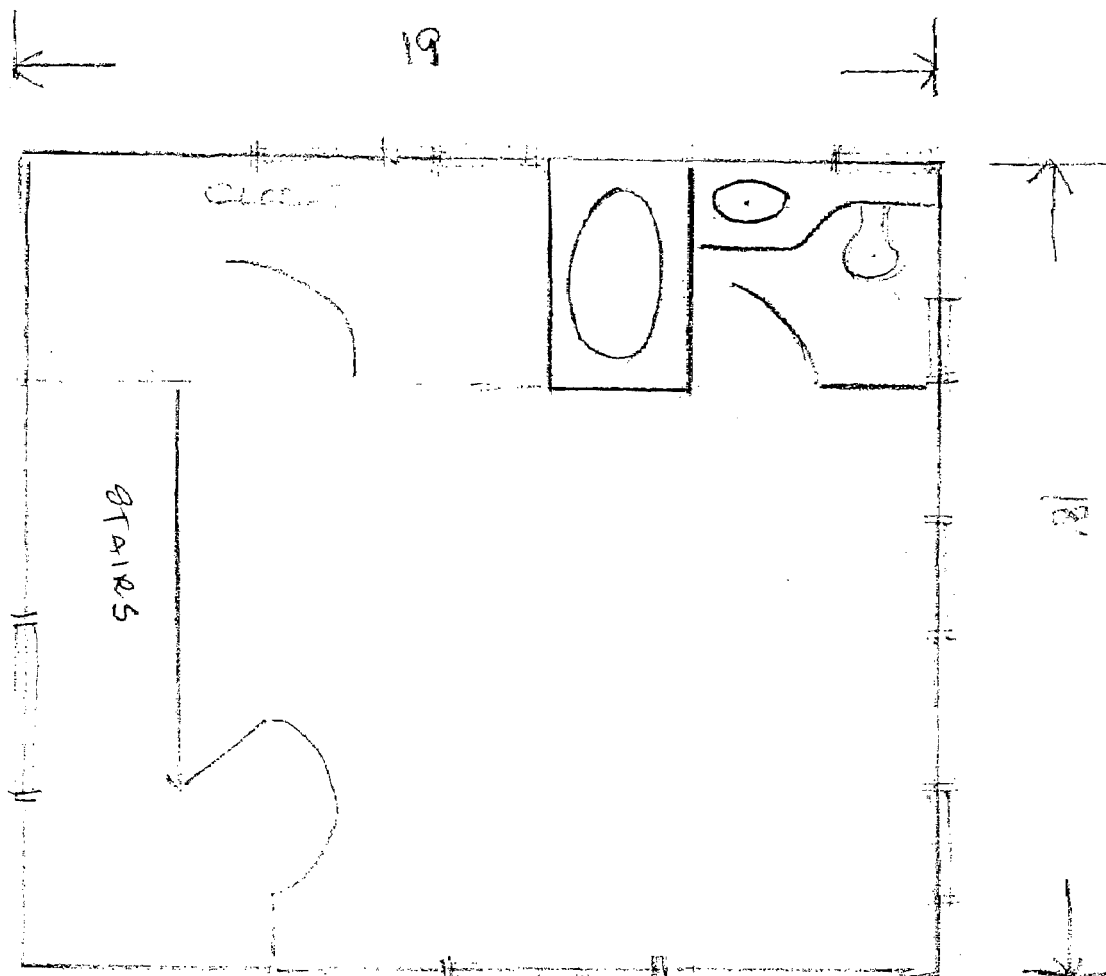


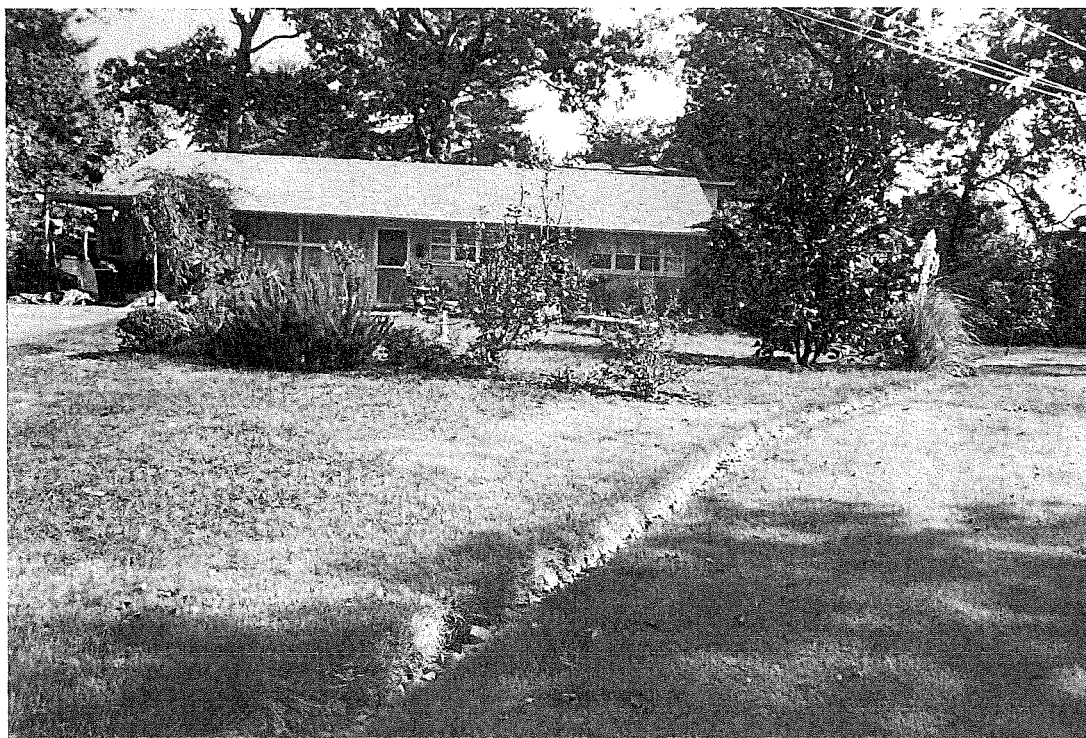
Ms Sally Coler
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Alexandria, VA 22310-2818

11/6/12

INTERIOR
DIMENSIONS
18x19

ADDITION SECOND FLOOR

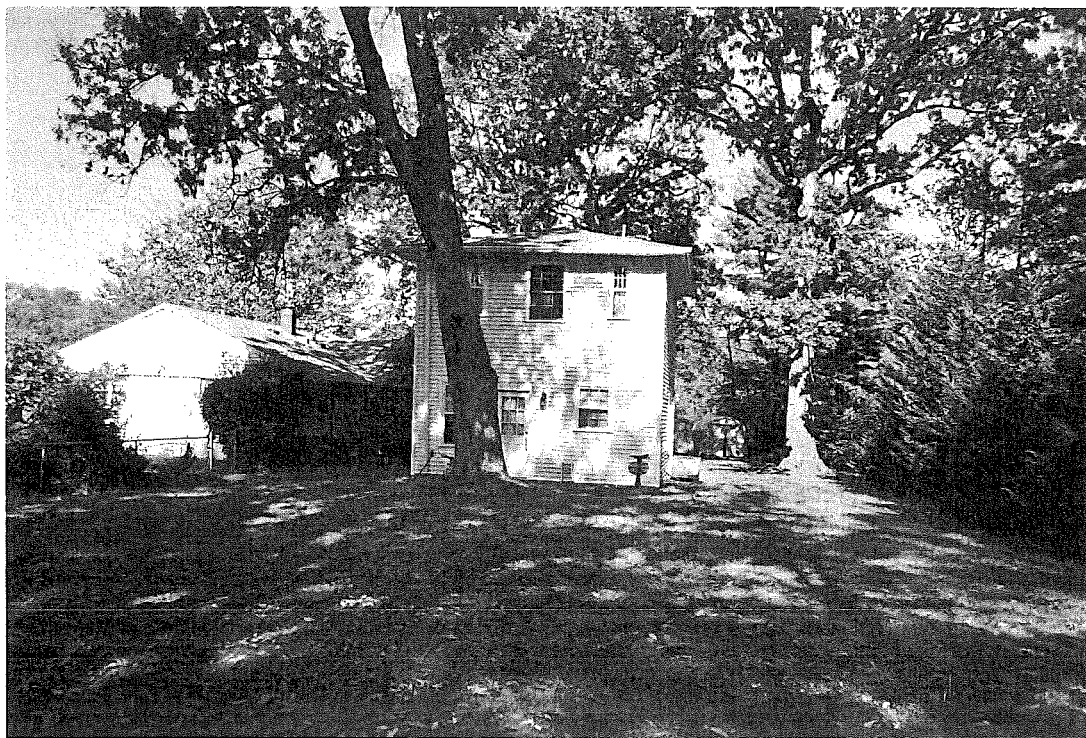




View of principal dwelling from Hayfield Place.



View of principal dwelling and accessory dwelling facing north from the property line.



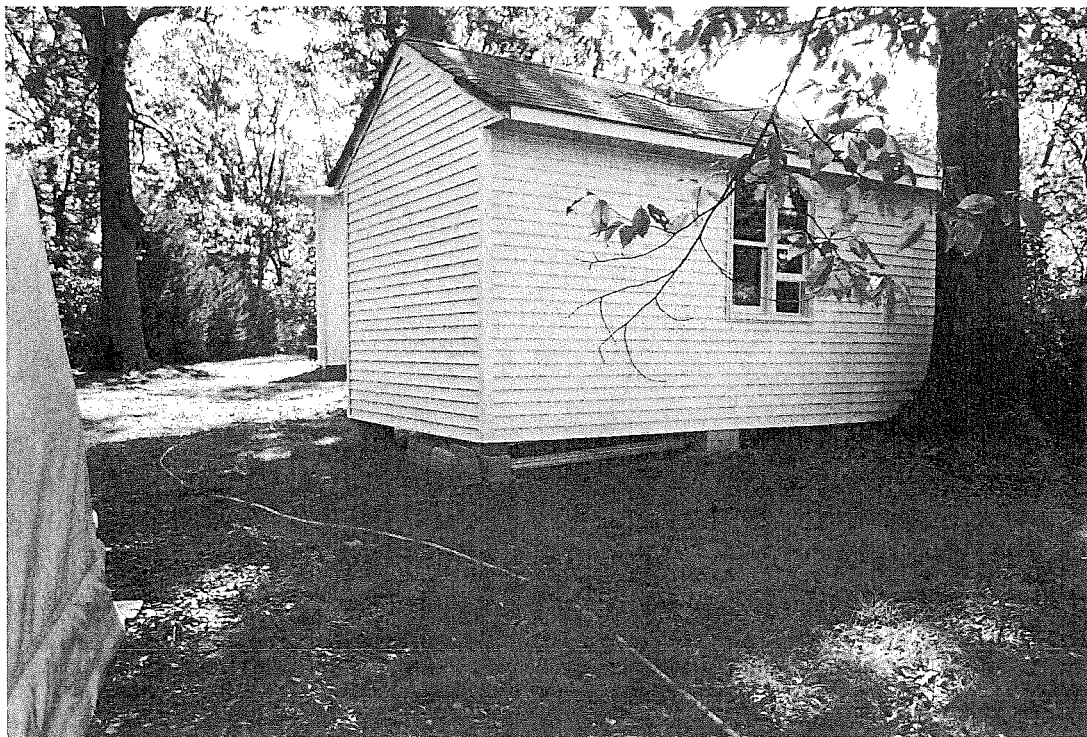
View of front of accessory dwelling from right property line.



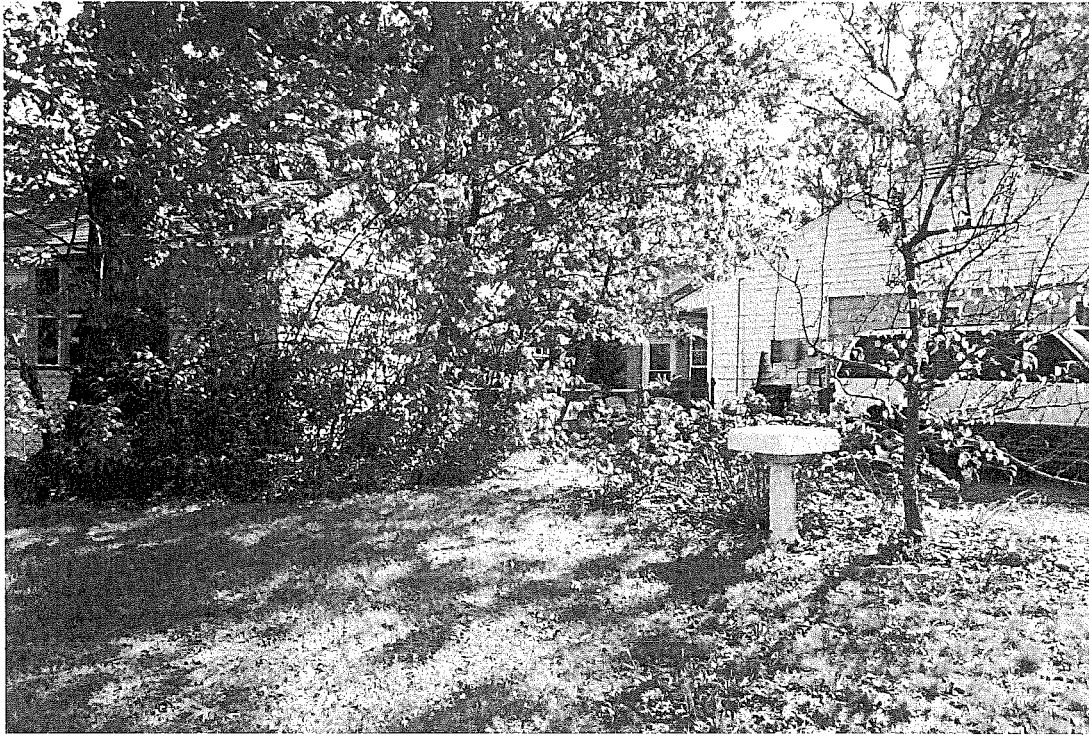
View of accessory dwelling from rear property line.



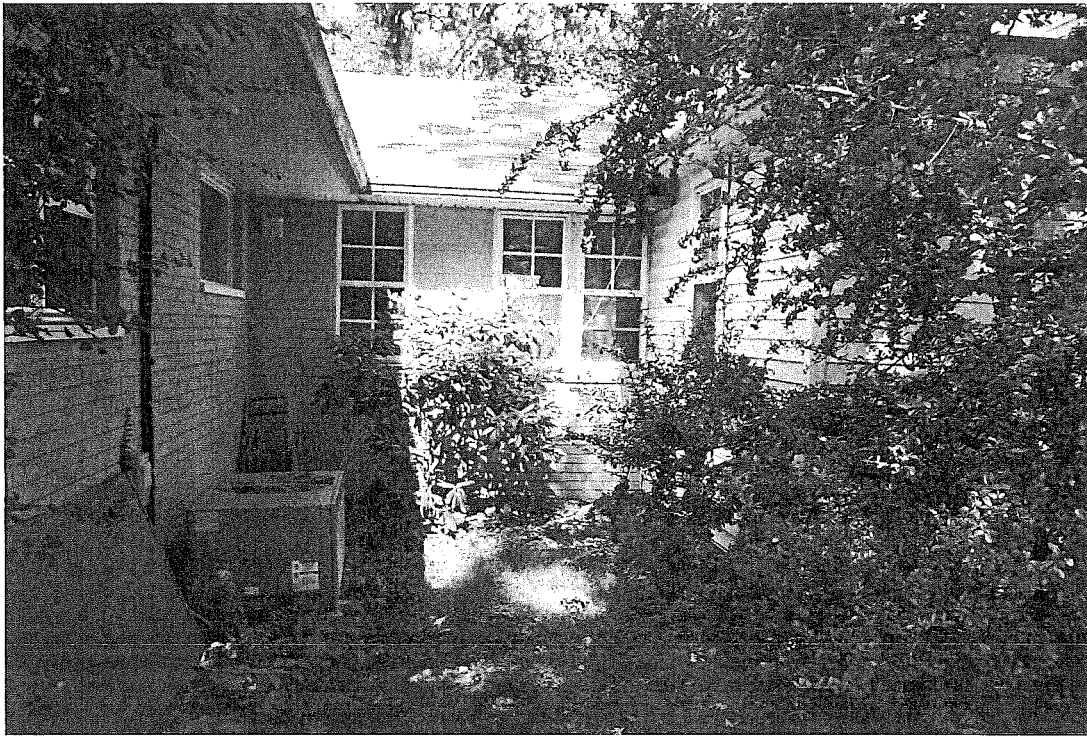
View of principal dwelling from rear corner of property.



View of shed from near property line.

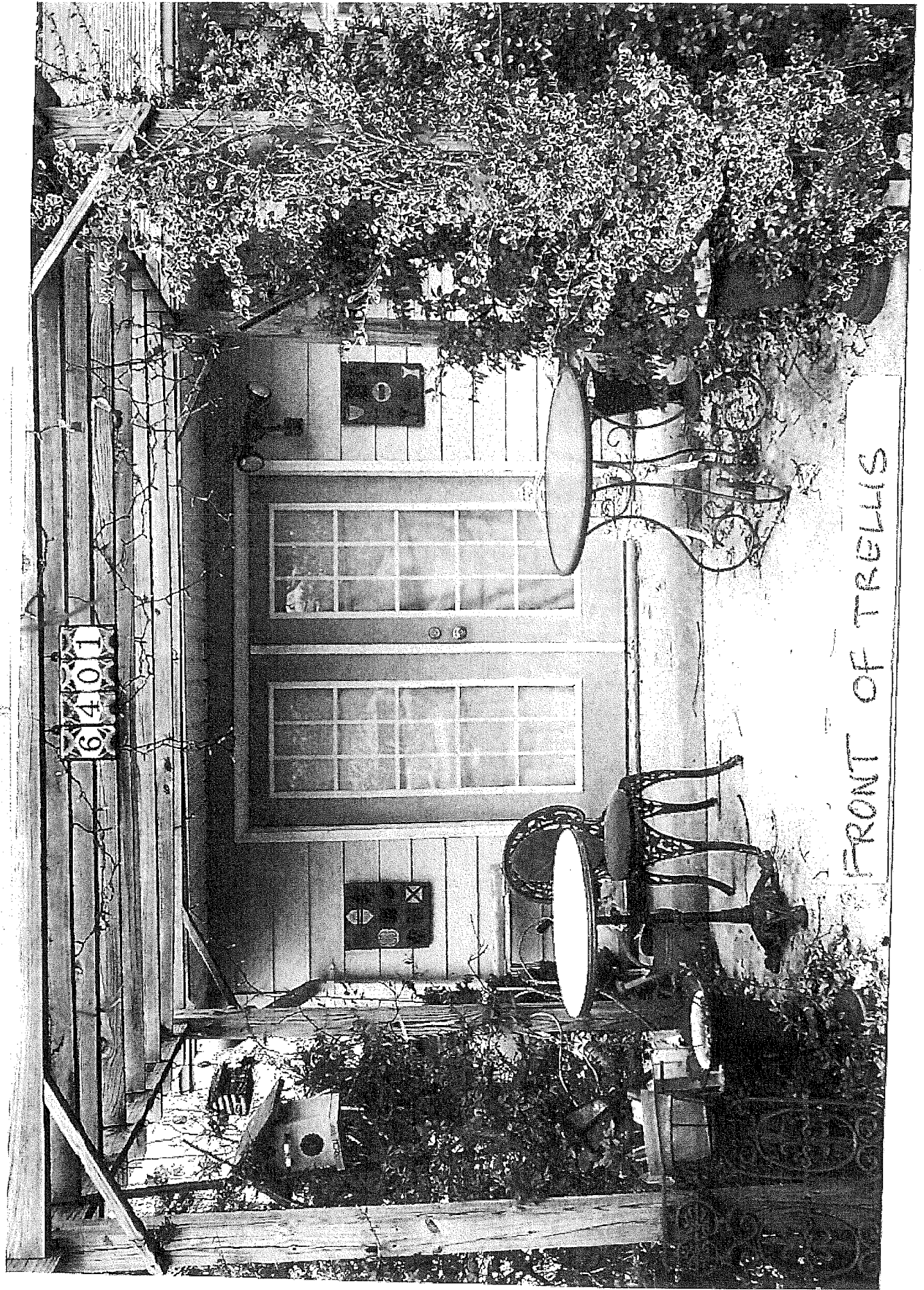


View of left side of principal dwelling from left property line.

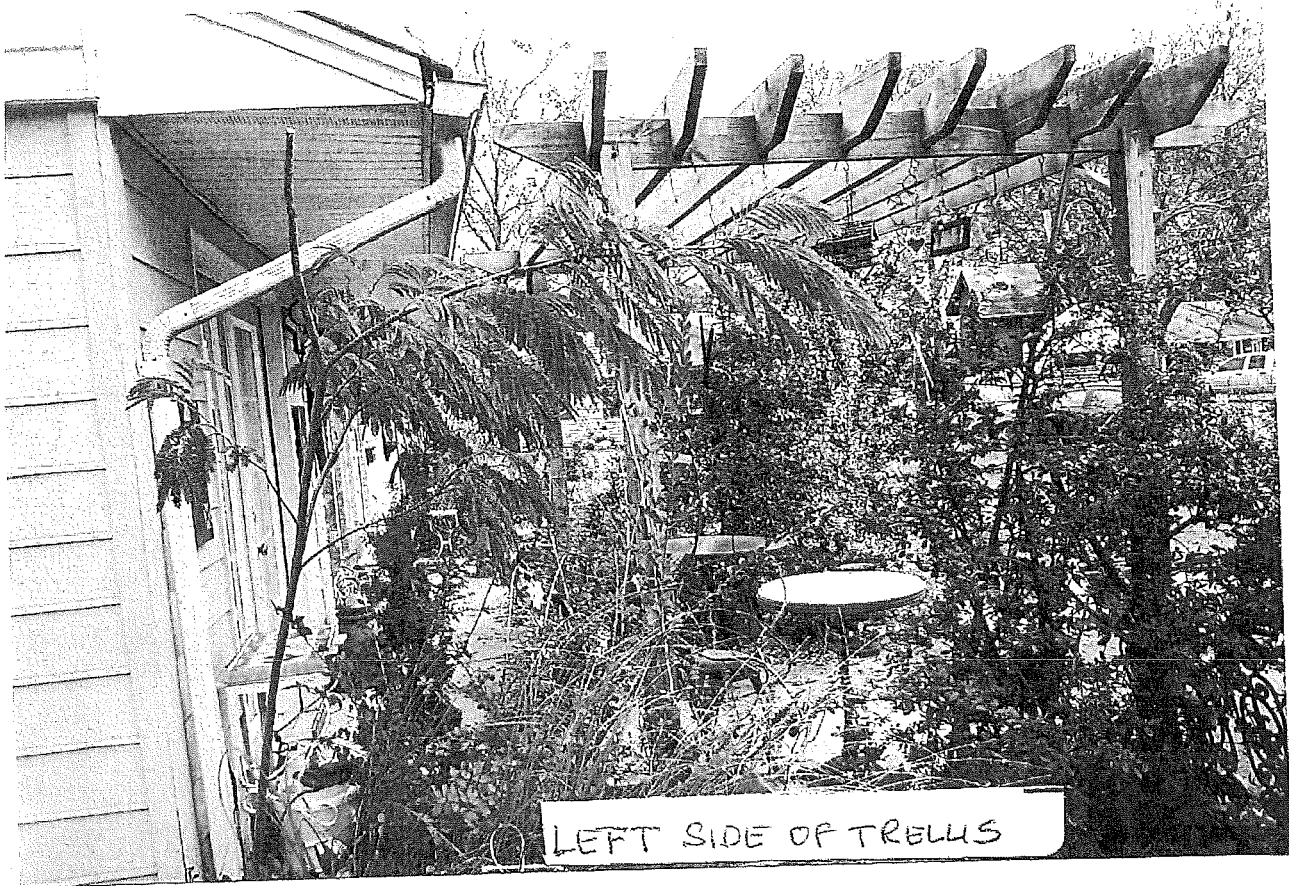


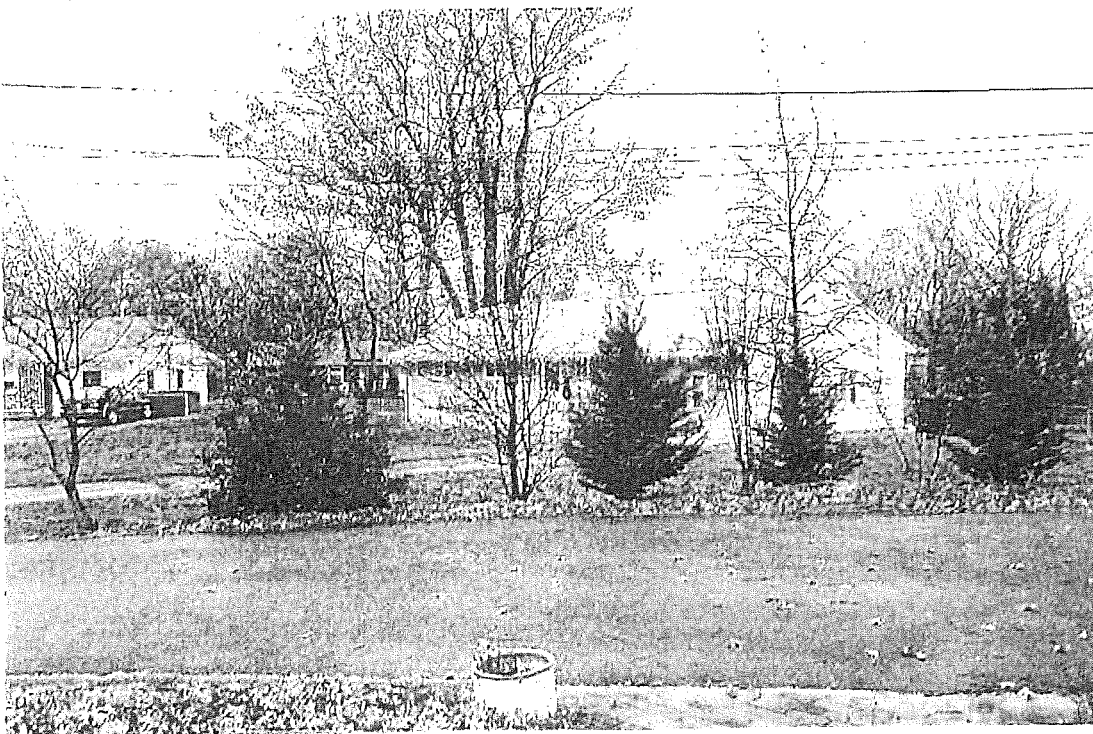
View of hallway connection between back principal dwelling and accessory dwelling.

Ms Sally Coler
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Alexandria, VA 22310-2818

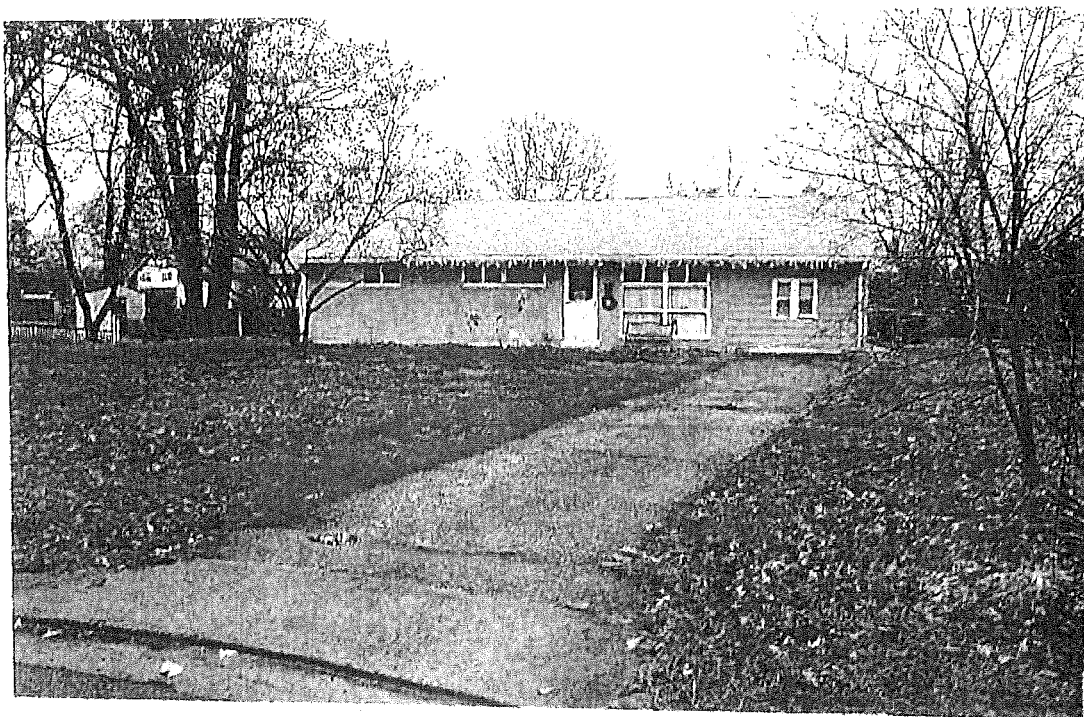


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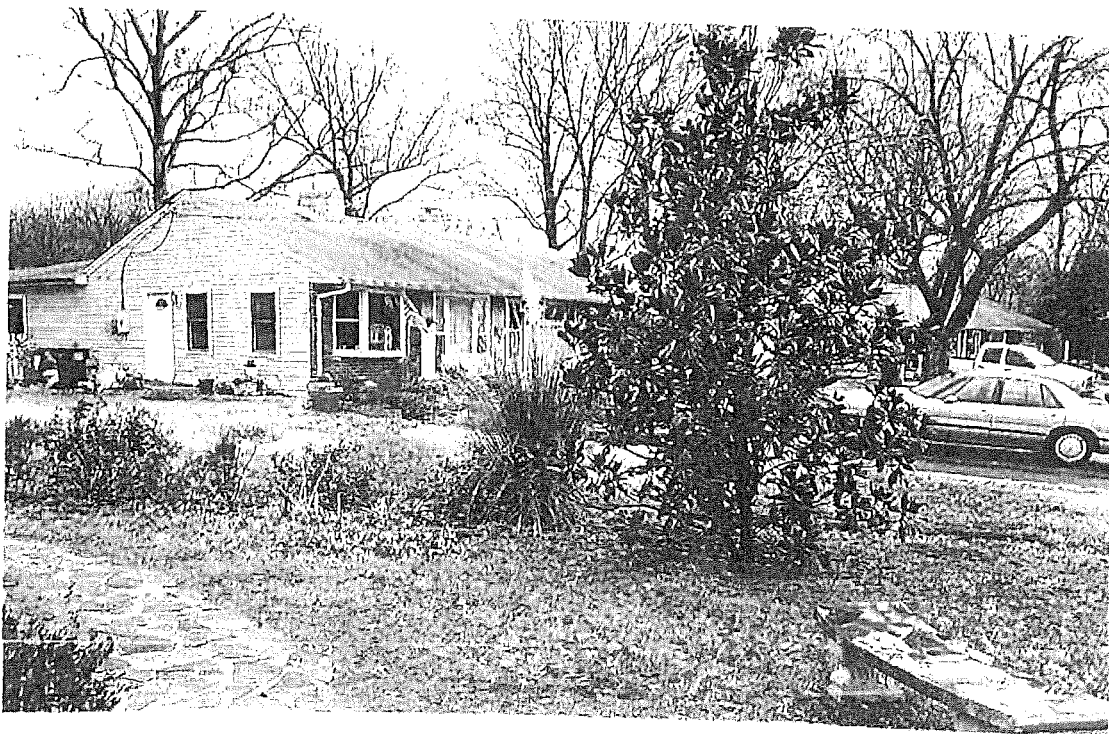




6400 Hayfield Place—House on my left taken from front of my house.



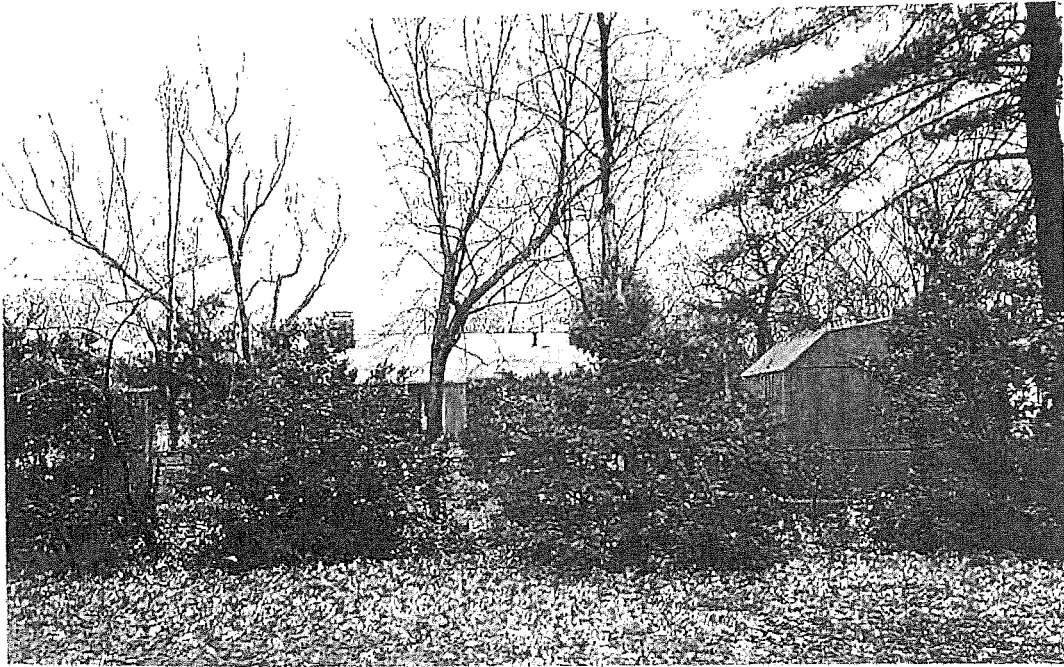
6400 Hayfield Place—House on my left taken from the street.



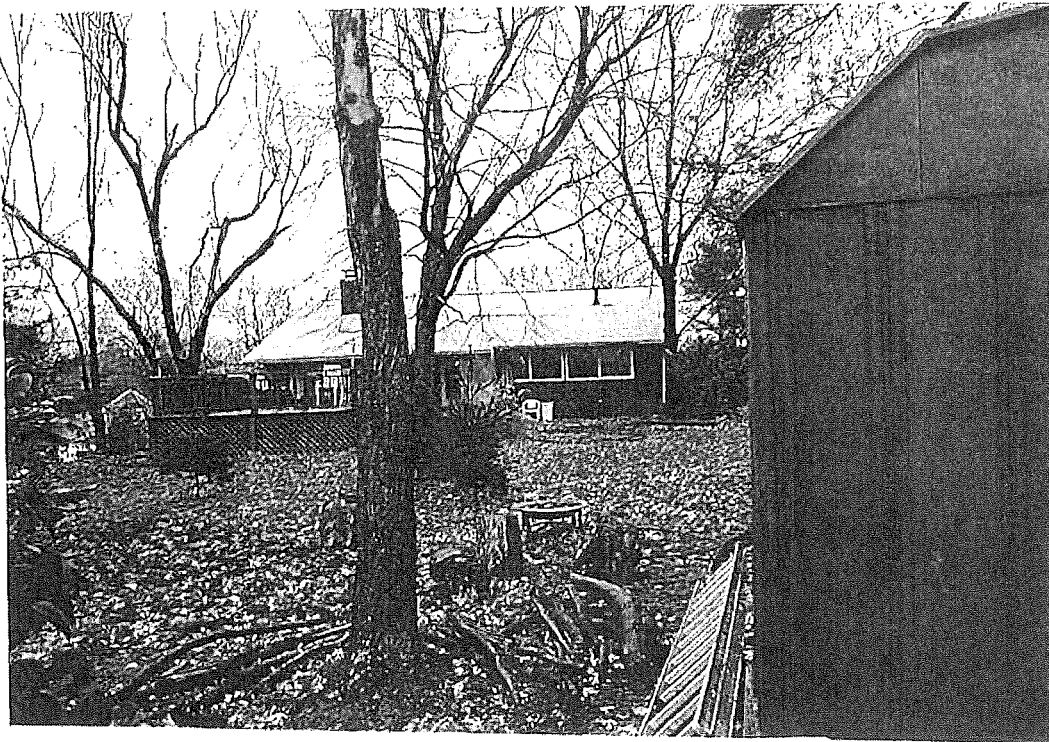
6403 Hayfield Place—House on my right taken from the front of my house.



6403 Hayfield Place—House on my right taken from street.



6320 Willowood Lane—Backs up to my house on the left. Taken from my back door.



6320 Willowood Lane—Backs up to me on the left. Taken from property line.



6324 Willowood Lane—Backs up to my house on the right. The picture was taken from the property line. They installed a plastic pool this past summer.

DESCRIPTION OF THE APPLICATIONS

Special Permit Request: To permit an existing accessory dwelling unit to remain within a single family detached dwelling.

Size of Principal Dwelling: 2,552 square feet*

Size of Accessory Dwelling Unit: 872 square feet (34.16%)

Lot Size: 19,527 square feet

*According to plat, signed and sealed by the Land Surveyor

Description of Variance Request

The applicant also requests approval of a variance to permit an accessory structure, a trellis 7.9 feet in height, to remain in a front yard of a lot containing 36,000 square feet or less. The trellis is located at the end of the driveway adjacent to the dwelling.

EXISTING SITE DESCRIPTION

The application property is developed with a one story, single-family detached dwelling with a two-story addition on the rear of the house. The original portion of the dwelling is brick and siding and the addition is all siding.

Access to the lot is provided via a hard surfaced driveway from Hayfield Place. The driveway is approximately 55 feet in length and can accommodate approximately four cars.

An existing open patio is located off the rear of the structure and includes a walkway to an existing accessory storage structure. The 12.7 foot high shed is located 19.8 feet from the side lot line and 30.6 feet from the rear lot line.

The lot is fairly level and contains several mature trees and shrubs.

A chain link fence, varying in height from 3.2 to 3.5 feet encloses the rear yard.

CHARACTER OF THE AREA

	Zoning	Use
North	R-1	Single family detached dwellings
South	R-1	Single family detached dwellings
East	R-1	Single family detached dwellings
West	R-1	Single family detached dwellings

BACKGROUND

The existing dwelling was constructed in 1954. The garage was enclosed for living space in 2001 following the issuance of a building permit. The applicant constructed a trellis in front of the former garage space.

In 2004, the applicant obtained a building permit to construct a two-story addition attached to the rear of the dwelling. This space contains the existing accessory dwelling unit. The accessory dwelling unit contains one bedroom, one bathroom, a kitchen and living spaces.

On August 15, 2012, the applicant was issued a Notice of Violation (NOV) for having two complete and separate dwellings within the dwelling as well as outdoor storage in excess 100 square feet. A copy of the NOV is included as Appendix 5. The applicant filed the special permit application on October 15, 2012.

Records indicate there were no other similar applications for properties in the vicinity of the application site heard by the BZA.

ANALYSIS**Special Permit Plat** (Copy at front of staff report)

Title of SP Plat: Plat Showing the Improvements on Lot 23, Block K, Section One, Rose Hill Farm

Prepared By: Dominion Surveyors Inc.

Dated: September 25, 2012

Proposed Use

The applicant requests approval of both a special permit and variance. The special permit request is to allow the applicant keep the existing accessory dwelling unit. The accessory unit is contained within a two-story addition to the main dwelling and is a total of 872 square feet in size which is 34.17% of the size of the main dwelling at 2,552 square feet in size. As shown on the floor plan at the front of the staff report, the first floor of the accessory unit contains the kitchen and living area and the second floor contains the bedroom and bathroom. The applicant, who is over 55 years of age and lives in the main dwelling, rents the accessory unit. Access to the accessory unit is provided by both side and rear doors. Occupants of both units park in the driveway where space for four cars is available.

The applicant is also requesting approval of a variance to permit an accessory structure, a detached trellis, to remain in the front yard of a lot containing 36,000 square feet or less. The trellis is 7.9 feet in height and is located at the end of the driveway adjacent to the house.

ZONING ORDINANCE REQUIREMENTS (See Appendix 6)

- Sect. 8-006 General Special Permit Standards
- Group Standards for All Group 9 Uses (Sect. 8-903)
- Additional Standards for Accessory Dwelling Units (Sect. 8-918)
- Sect. 18-401 Required Standards for Variances

Summary of Zoning Ordinance Provisions

This special permit is subject to Sects. 8-006, 8-903 and 8-918 of the Zoning Ordinance as referenced above, a copy of which is included in Appendix 6. Subject to development conditions, the special permit must meet these standards.

CONCLUSIONS AND RECOMMENDATIONS

Staff believes that all applicable standards for the accessory dwelling unit as outline in Sects. 8-006, 8-903 and 8-918 will be satisfied with adoption of the proposed development conditions. Staff recommends of approval of SP 2012-LE-004 subject to the Proposed Development Conditions contained in Appendix 1 of the staff report.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals.

The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

APPENDICES

1. Proposed Special Permit Development Conditions
2. Proposed Variance Development Conditions
3. Applicant's Affidavits
4. Applicant's Statement of Justification
5. Notice of Violation dated August 15, 2012
6. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS

SP 2013-LE-004

March 27, 2013

If it is the intent of the Board of Zoning Appeals to approve SP 2013-LE-004 located at Tax Map 82-3 ((14)) (K) 23 to permit an accessory dwelling unit pursuant to Sect. 8-918 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. These conditions shall be recorded by the applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit for the kitchen. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
2. This approval is granted to the applicant only, Sally A. Coler, and is not transferable without further action of this Board, and is for the location indicated on the application, 6401 Hayfield Place, (19,527 square feet), and is not transferable to other land.
3. This special permit is granted only for the purposes, structures and/or uses indicated on the plat prepared by Dominion Surveyors, Inc., dated September 25, 2012, as signed and sealed by George M. O'Quinn, Land Surveyor, and approved with this application, as qualified by these development conditions.
4. A copy of this special permit SHALL BE POSTED in a conspicuous place on the property of the use and made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
5. The occupants of the principal dwelling and the accessory dwelling unit shall be in accordance with Par. 5 of Sect. 8-918 of the Zoning Ordinance which states in part that one of the dwelling units shall be occupied by a person or persons who qualify as elderly (55 years of age or older) and/or permanently and totally disabled.
6. The accessory dwelling unit shall contain a maximum of 872 square feet, and the layout shall be generally as depicted on the floor plan included as Attachment 1 to these conditions.
7. All applicable building permits and final inspections shall be obtained for the kitchen components of the accessory dwelling unit.

8. Provisions shall be made for the inspection of the property by County personnel during reasonable hours upon prior notice and the accessory dwelling unit shall meet the applicable regulation for building, safety, health and sanitation.
9. The accessory dwelling unit shall be approved for a period of five (5) years from the final approval date of the special permit and may be extended for five (5) year periods with prior approval of the Zoning Administrator in accordance with Section 8-012 of the Zoning Ordinance.
10. If the use of the accessory dwelling unit ceases and/or the property is sold or otherwise conveyed, the accessory dwelling unit shall be converted to a use permitted by the Zoning Ordinance or if the property is sold or conveyed, a special permit amendment may be submitted to permit the continued use of an accessory dwelling unit.
11. All parking shall be provided on site as shown on the special permit plat.

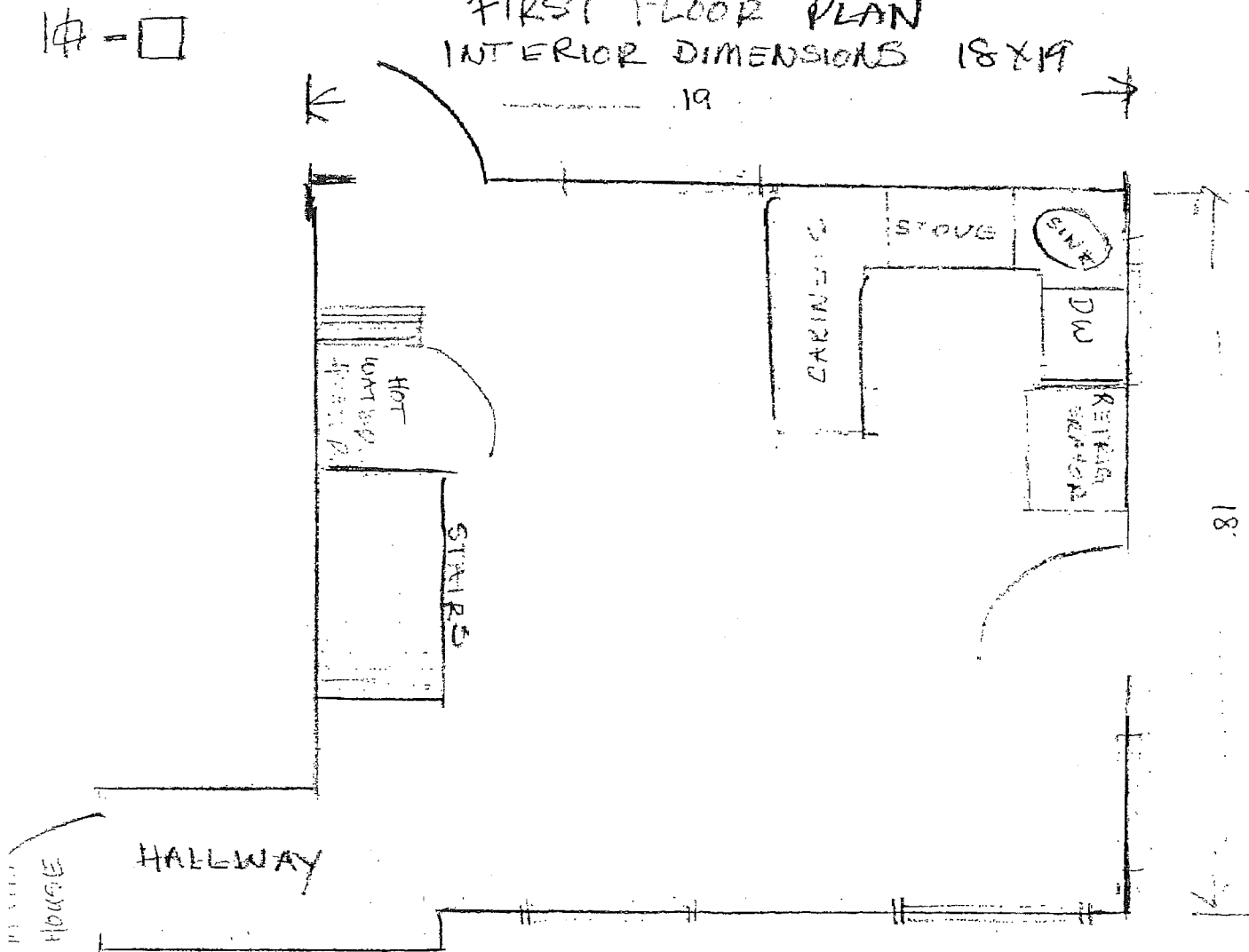
This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Pursuant to Sect. 8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, six (6) months after the date of approval unless the use has been established as noted above. The Board of Zoning Appeals may grant additional time to establish the use if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

11/6/12

Ms Sally Coler
6401 Hayfield Pl
Alexandria, VA 22310-2818

ADDITION
FIRST FLOOR PLAN
INTERIOR DIMENSIONS 18x19



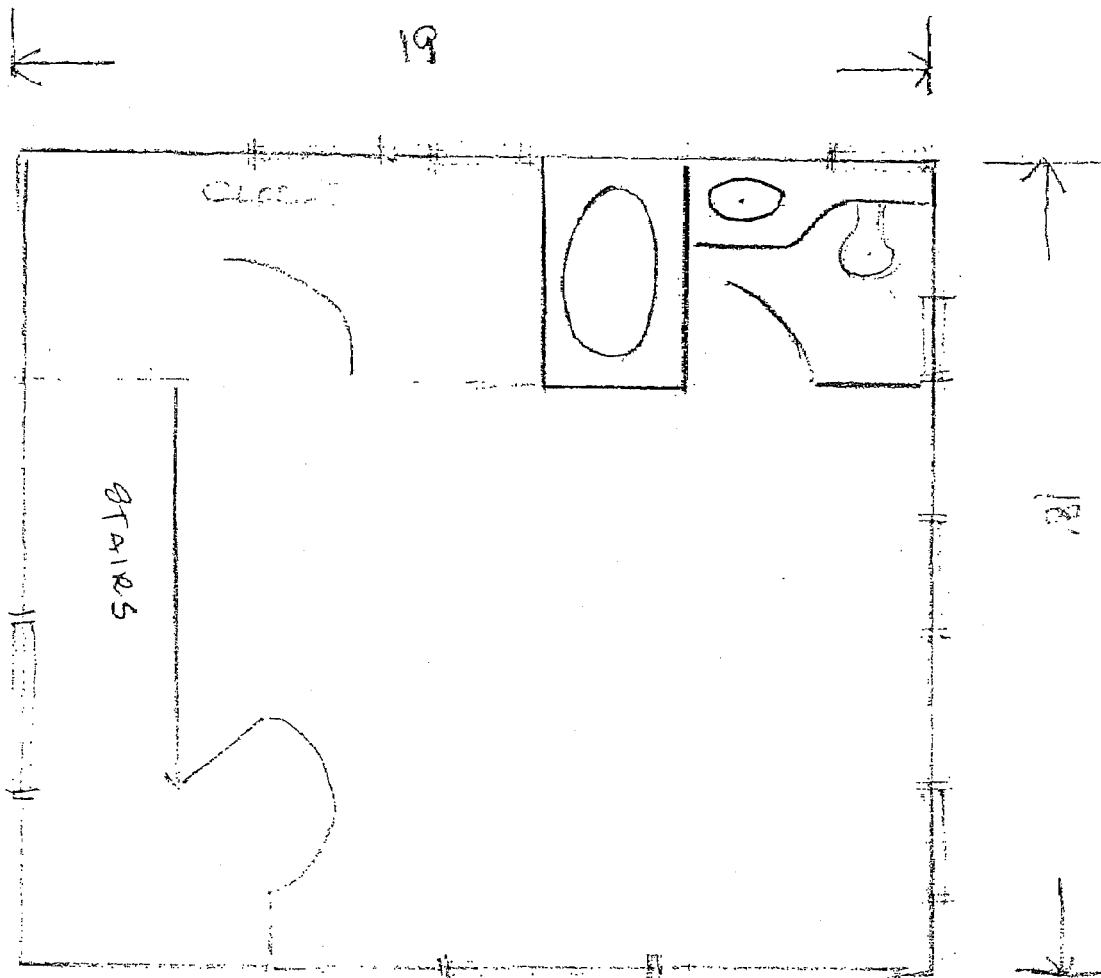


Ms Sally Coler
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Alexandria, VA 22310-2818

11/6/12

INTERIOR
DIMENSIONS
18x19

ADDITION
SECOND FLOOR



PROPOSED DEVELOPMENT CONDITIONS

VC 2013-LE-001

March 27, 2013

1. This variance is approved for the location of an accessory structure, a trellis, in the front yard as shown on the plat prepared by George M. O'Quinn, Land Surveyor, dated September 25, 2012, as submitted with this application and is not transferable to other land.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards including requirements for building permits.

Application No.(s): SP 2013-LE-004
 (county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: March 8, 2013
 (enter date affidavit is notarized)

I, Jonathan D. Puvak, attorney/agent, do hereby state that I am an
 (enter name of applicant or authorized agent)

(check one) ☐ applicant
☒ applicant's authorized agent listed in Par. 1(a) below

1182726

and that, to the best of my knowledge and belief, the following is true:

1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,* and, if any of the foregoing is a **TRUSTEE**,** each **BENEFICIARY** of such trust, and all **ATTORNEYS** and **REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(**NOTE**: All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
Sally A. Coler	6401 Hayfield Place Alexandria, VA 22310	Applicant/Title Owner of Tax Map 82-3 ((14)) (K) 23
Dominion Surveyors, Inc. Agent: J. Derek Daniels	8808-H Pear Tree Village Alexandria, Virginia 22309	Surveyor/Agent

(check if applicable) ☒ There are more relationships to be listed and Par. 1(a) is continued on a "Special Permit/Variance Attachment to Par. 1(a)" form.

* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.

** List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

Application No.(s): SP 2013-LE-004
(county-assigned application number(s), to be entered by County Staff)

Page 1 of 1

Special Permit/Variance Attachment to Par. 1(a)

DATE: March 8, 2013
(enter date affidavit is notarized)

1182726

(NOTE): All relationships to the application are to be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel (s) for each owner(s) in the Relationship column.)

NAME
(enter first name, middle initial, and last name)

ADDRESS
(enter number, street, city, state, and zip code)

RELATIONSHIP(S)
(enter applicable relationships listed in **BOLD** above)

Walsh, Colucci, Lubeley, Emrich & Walsh, P.C.

2200 Clarendon Boulevard
13th Floor
Arlington, Virginia 22201

Attorneys/Planners/Agent

Agents:

Martin D. Walsh

Lynne J. Strobel

Timothy S. Sampson

M. Catharine Puskar

Sara V. Mariska

G. Evan Pritchard

Jonathan D. Puvak

Elizabeth D. Baker

Inda E. Stagg

● Elizabeth A. Nicholson
f/k/a Elizabeth A. McKeeby

(check if applicable)

☐ There are more relationships to be listed and Par. 1(a) is continued further on a "Special Permit/Variance Attachment to Par. 1(a)" form.

Application No.(s): SP 2013-LE-004
(county-assigned application number(s), to be entered by County Staff)

Page Two

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: March 8, 2013
(enter date affidavit is notarized)

1182726

1(b). The following constitutes a listing*** of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

(NOTE: Include **SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS** herein.)

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

Walsh, Colucci, Lubeley, Emrich & Walsh, P.C.
2200 Clarendon Boulevard, 13th Floor
Arlington, Virginia 22201

DESCRIPTION OF CORPORATION: (check one statement)

- ☐ There are 10 or less shareholders, and all of the shareholders are listed below.
☒ There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
☐ There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF SHAREHOLDERS: (enter first name, middle initial, and last name)

David J. Bomgardner, E. Andrew Burcher, Lynne J. Strobel, Garth M. Wainman,
Thomas J. Colucci, Michael J. Coughlin, Nan E. Walsh, Martin D. Walsh
Peter M. Dolan, Jr., Jay du Von, William A.
Fogarty, John H. Foote, H. Mark Goetzman,
Bryan H. Guidash, Michael D. Lubeley,
J. Randall Minchew, M. Catharine Puskar,
John E. Rinaldi, Kathleen H. Smith,

(check if applicable) ☒ There is more corporation information and Par. 1(b) is continued on a "Special Permit/Variance Attachment 1(b)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s):

SP 2013-LE-004
(county-assigned application number(s), to be entered by County Staff)

Page 1 of 1

Special Permit/Variance Attachment to Par. 1(b)

DATE: March 8, 2013

(enter date affidavit is notarized)

11 82726

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

Dominion Surveyors, Inc.
8808-H Pear Tree Village
Alexandria, Virginia 22309

DESCRIPTION OF CORPORATION: (check one statement)

- ☒ There are 10 or less shareholders, and all of the shareholders are listed below.
☐ There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
☐ There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDERS: (enter first name, middle initial, and last name)

George M. O'Quinn
Michael A. Clark

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

DESCRIPTION OF CORPORATION: (check one statement)

- ☐ There are 10 or less shareholders, and all of the shareholders are listed below.
☐ There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
☐ There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDERS: (enter first name, middle initial, and last name)

(check if applicable) ☐ There is more corporation information and Par. 1(b) is continued further on a "Special Permit/Variance Attachment to Par. 1(b)" form.

Application No.(s):

SP 2013-LE-004
(county-assigned application number(s), to be entered by County Staff)

Page Three

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: March 8, 2013

(enter date affidavit is notarized)

1182726

- 1(c). The following constitutes a listing*** of all of the **PARTNERS**, both **GENERAL** and **LIMITED**, in any partnership disclosed in this affidavit:

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, number, street, city, state, and zip code)

None

(check if applicable) ☐ The above-listed partnership has no limited partners.

NAMES AND TITLE OF THE PARTNERS (enter first name, middle initial, last name, and title, e.g. **General Partner, Limited Partner, or General and Limited Partner**)

(check if applicable) ☐ There is more partnership information and Par. 1(c) is continued on a "Special Permit/Variance Attachment to Par. 1(c)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): Sp 2013-LE-004
(county-assigned application number(s), to be entered by County Staff)

Page Four

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: March 8, 2013
(enter date affidavit is notarized)

11 82725

1(d). One of the following boxes **must** be checked:

☐ In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land:

☒ Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land.

2. That no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

EXCEPT AS FOLLOWS: (**NOTE:** If answer is none, enter "NONE" on the line below.)

None

(check if applicable) ☐ There are more interests to be listed and Par. 2 is continued on a "Special Permit/Variance Attachment to Par. 2" form.

Application No.(s): SP 2013-LE-004
(county-assigned application number(s), to be entered by County Staff)

Page Five

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: March 8, 2013
(enter date affidavit is notarized)

118 2726

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on line below.)

None

(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) ☐ There are more disclosures to be listed and Par. 3 is continued on a "Special Permit/Variance Attachment to Par. 3" form.

4. **That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.**

WITNESS the following signature:

(check one)

☐ Applicant

☒ Applicant's Authorized Agent

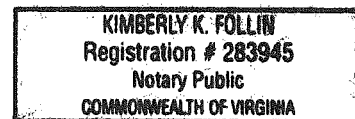
Jonathan D. Puvak, attorney/agent

(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 8 day of March 2013, in the State/Comm. of Virginia, County/City of Arlington.

Kimberly K. Follin
Notary Public

My commission expires: 11/30/2015



Application No.(s): VC 2013-LE-001
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: March 8, 2013
(enter date affidavit is notarized)

I, Jonathan D. Puvak, attorney/agent, do hereby state that I am an
(enter name of applicant or authorized agent)

(check one) ☐ applicant
☒ applicant's authorized agent listed in Par. 1(a) below

1193106

and that, to the best of my knowledge and belief, the following is true:

- 1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,* and, if any of the foregoing is a **TRUSTEE**,** each **BENEFICIARY** of such trust, and all **ATTORNEYS** and **REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(**NOTE**: All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
Sally A. Coler	6401 Hayfield Place Alexandria, VA 22310	Applicant/Title Owner of Tax Map 82-3 ((14)) (K) 23
Dominion Surveyors, Inc. Agent: J. Derek Daniels	8808-H Pear Tree Village Alexandria, Virginia 22309	Surveyor/Agent

(check if applicable) ☒ There are more relationships to be listed and Par. 1(a) is continued on a "Special Permit/Variance Attachment to Par. 1(a)" form.

* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.

** List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

Application No.(s): VC 2013-LE-001
(county-assigned application number(s), to be entered by County Staff)

Page 1 of 1

Special Permit/Variance Attachment to Par. 1(a)

DATE: March 8, 2013
(enter date affidavit is notarized)

1193106

(NOTE): All relationships to the application are to be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel (s) for each owner(s) in the Relationship column.)

NAME
(enter first name, middle initial, and last name)

ADDRESS
(enter number, street, city, state, and zip code)

RELATIONSHIP(S)
(enter applicable relationships listed in **BOLD** above)

Walsh, Colucci, Lubeley, Emrich &
Walsh, P.C.

2200 Clarendon Boulevard
13th Floor
Arlington, Virginia 22201

Attorneys/Planners/Agent

Agents:
Martin D. Walsh
Lynne J. Strobel
Timothy S. Sampson
M. Catharine Puskar
Sara V. Mariska
G. Evan Pritchard
Jonathan D. Puvak
Elizabeth D. Baker
Inda E. Staggs
● Elizabeth A. Nicholson
f/k/a Elizabeth A. McKeeby

(check if applicable)

☐ There are more relationships to be listed and Par. 1(a) is continued further on a "Special Permit/Variance Attachment to Par. 1(a)" form.

Application No.(s): VC 2013-LE-001
(county-assigned application number(s), to be entered by County Staff)

Page Two

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: March 8, 2013
(enter date affidavit is notarized)

1193106

1(b). The following constitutes a listing*** of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

(NOTE: Include **SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS** herein.)

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

Walsh, Colucci, Lubeley, Emrich & Walsh, P.C.
2200 Clarendon Boulevard, 13th Floor
Arlington, Virginia 22201

DESCRIPTION OF CORPORATION: (check one statement)

- ☐ There are 10 or less shareholders, and all of the shareholders are listed below.
☒ There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
☐ There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF SHAREHOLDERS: (enter first name, middle initial, and last name)

David J. Bomgardner, E. Andrew Burcher, Lynne J. Strobel, Garth M. Wainman,
Thomas J. Colucci, Michael J. Coughlin, Nan E. Walsh, Martin D. Walsh
Peter M. Dolan, Jr., Jay du Von, William A.
Fogarty, John H. Foote, H. Mark Goetzman,
Bryan H. Guidash, Michael D. Lubeley,
J. Randall Minchew, M. Catharine Puskar,
John E. Rinaldi, Kathleen H. Smith,

(check if applicable) ☒ There is more corporation information and Par. 1(b) is continued on a "Special Permit/Variance Attachment 1(b)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): VC 2013-LE-001
(county-assigned application number(s), to be entered by County Staff)

Page 1 of 1

Special Permit/Variance Attachment to Par. 1(b)

DATE: March 8, 2013
(enter date affidavit is notarized)

1193102

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

Dominion Surveyors, Inc.
8808-H Pear Tree Village
Alexandria, Virginia 22309

DESCRIPTION OF CORPORATION: (check one statement)

- ☒ There are 10 or less shareholders, and all of the shareholders are listed below.
☐ There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
☐ There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDERS: (enter first name, middle initial, and last name)

George M. O'Quinn
Michael A. Clark

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

DESCRIPTION OF CORPORATION: (check one statement)

- ☐ There are 10 or less shareholders, and all of the shareholders are listed below.
☐ There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
☐ There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDERS: (enter first name, middle initial, and last name)

(check if applicable) ☐ There is more corporation information and Par. 1(b) is continued further on a "Special Permit/Variance Attachment to Par. 1(b)" form.

Application No.(s): VC 2013-LE-001
(county-assigned application number(s), to be entered by County Staff)

Page Three

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: March 8, 2013
(enter date affidavit is notarized)

1193106

1(c). The following constitutes a listing*** of all of the **PARTNERS**, both **GENERAL** and **LIMITED**, in any partnership disclosed in this affidavit:

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, number, street, city, state, and zip code)
None

(check if applicable) ☐ The above-listed partnership has no limited partners.

NAMES AND TITLE OF THE PARTNERS (enter first name, middle initial, last name, and title, e.g. **General Partner, Limited Partner, or General and Limited Partner**)

(check if applicable) ☐ There is more partnership information and Par. 1(c) is continued on a "Special Permit/Variance Attachment to Par. 1(c)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): VC 2013-LE-001
(county-assigned application number(s), to be entered by County Staff)

Page Four

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: March 8, 2013
(enter date affidavit is notarized)

1193106

1(d). One of the following boxes **must** be checked:

☐ In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land:

☒ Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land.

2. That no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

EXCEPT AS FOLLOWS: (**NOTE:** If answer is none, enter "NONE" on the line below.)

None

(check if applicable) ☐ There are more interests to be listed and Par. 2 is continued on a "Special Permit/Variance Attachment to Par. 2" form.

Application No.(s): VC 2013-LE-001
(county-assigned application number(s), to be entered by County Staff)

Page Five

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: March 8, 2013
(enter date affidavit is notarized)

1193107

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on line below.)

None

(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) ☐ There are more disclosures to be listed and Par. 3 is continued on a "Special Permit/Variance Attachment to Par. 3" form.

4. **That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.**

WITNESS the following signature:

(check one)

☐ Applicant

☒ Applicant's Authorized Agent

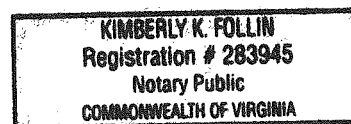
Jonathan D. Puvak, attorney/agent

(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 8 day of March 2013, in the State/Comm. of Virginia, County/City of Arlington.

Kimberly K. Follin
Notary Public

My commission expires: 11/30/2015





Jonathan D. Puvak
 (703) 528-4700 Ext. 5455
jpuvak@arl.thelandlawyers.com
 Fax: (703) 528-6050

**WALSH COLUCCI
 LUBELEY EMRICH
 & WALSH PC**

REVISED

December 21, 2012

U.S. Mail
Via Hand Delivery

Barbara C. Berlin, Director
 Fairfax County Department of Planning & Zoning
 Zoning Evaluation Division
 12055 Government Center Parkway, Suite 801
 Fairfax, Virginia 22035

Re: Special Permit Application
 Fairfax County Tax Map Reference: 82-3 ((14)) (K) 23 (the "Subject Property")
 Applicant: Sally Coler

Dear Ms. Berlin:

Please accept this letter as a revised statement of justification to accompany a Special Permit application requesting an existing accessory dwelling unit on the Subject Property.

The Subject Property is located at 6401 Hayfield Place in the Rose Hill Farm subdivision. Surrounding development consists primarily of established residential developments. The Subject Property is zoned to the R-3 District, and is located in the Lee Magisterial District.

The Applicant proposes an accessory dwelling unit in accordance with the conditions of Section 8-918 of the Fairfax County Zoning Ordinance (the "Zoning Ordinance"). The Subject Property is currently improved with a single-family detached dwelling (the "Principal Dwelling") and an attached accessory dwelling unit. The Principal Dwelling was constructed in 1954 and is approximately 2,552 square feet. The Principal Dwelling is owned and occupied by the Applicant, who is over fifty-five years of age. The accessory dwelling unit is a two-story, one bedroom structure located within the Principal Dwelling with external entrances located to the side and rear of the accessory dwelling unit. The interior of the accessory dwelling includes a living area, bedroom and full bathroom. The accessory dwelling unit was constructed in 2005 and, to the best of the Applicant's knowledge, was constructed to meet all Fairfax County regulations for building, safety, health and sanitation. The design of the accessory dwelling unit is similar to the Principal Dwelling and in harmony with the surrounding development. The gross floor area of the accessory dwelling is 872 square feet which does not exceed thirty-five (35) percent of the Principal Dwelling. As noted on the Special Permit plat, the gross floor area of the accessory dwelling unit is 34.17% of the gross floor area of the Principal Dwelling unit. Parking is provided in a carport and driveway and is sufficient to accommodate the Principal Dwelling and the accessory dwelling unit.

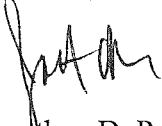
The Applicant relies on the use of the accessory dwelling unit to retain her independence and continue to live in Fairfax County. The Applicant's proposal is consistent with the Board of Supervisors' adopted policy on accessory dwelling units that is included as Appendix 5 to the Zoning Ordinance. As the accessory dwelling is existing, no construction or land disturbance is proposed by this application.

To the best of the Applicant's knowledge the Subject Property contains no hazardous or toxic substances. Except as otherwise noted, the proposed use conforms to the provisions of all applicable ordinances, regulations and adopted standards.

Should you have any questions, or require additional information, please do not hesitate to give me a call. I would appreciate the acceptance of this application and the scheduling of a hearing before the Board of Zoning Appeals at your earliest convenience. As always, I appreciate your cooperation and assistance.

Very truly yours,

WALSH, COLUCCI, LUBELEY, EMRICH & WALSH, P.C.

A handwritten signature in black ink, appearing to read 'Jonathan D. Puvak', is written over the printed name.

Jonathan D. Puvak

cc: Sally Coler
Lynne J. Strobel



Jonathan D. Puvak
(703) 528-4700 Ext. 5455
jpuvak@arl.thelandlawyers.com
Fax: (703) 528-6050

**WALSH COLUCCI
LUBELEY EMRICH
& WALSH PC**

December 21, 2012

Via Hand Delivery

Barbara C. Berlin, Director
Fairfax County Department of Planning & Zoning
Zoning Evaluation Division
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035

Re: Request for Variance
Fairfax County Tax Map Reference: 82-3 ((14)) (K) 23 (the "Subject Property")
Applicant: Sally Coler

Dear Ms. Berlin:

Please accept this letter as a statement of justification to accompany a Variance application requesting a freestanding structure to be located in a front yard of a lot containing 36,000 square feet or less. The Subject Property is located at 6401 Hayfield Place in the Rose Hill Farm subdivision. Surrounding development consists primarily of established residential developments. The Subject Property is zoned to the R-3 District, and is located in the Lee Magisterial District.

Under separate cover, the Applicant has filed a special permit application which proposes an accessory dwelling unit in accordance with the conditions of Section 8-918 of the Fairfax County Zoning Ordinance (the "Zoning Ordinance").

The freestanding structure is constructed of wood and is approximately six (6) feet by eight and one-half (8.5) feet with a height of 7.9 feet. The pergola is used as a sitting area and is surrounded by a variety of vegetation. The structure and vegetation offer protection from direct sunlight.

In accordance with the requirements of Section 18-404 of the Ordinance, please accept the following information in conjunction with the requested variance:

- The Subject Property was acquired in good faith by Sally Coler on or about November 13, 2001, as evidenced by deed recorded among the Fairfax County land records in Deed Book 12381 at page 0300.
- The Subject Property has an exceptional shape due to the location at the end of a cul-de-sac. The exceptional shape existed at the time of the effective date of the Ordinance.

- The condition or situation of the Subject Property is not so general or recurring in nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors.
- A strict application of the Ordinance will produce an undue hardship, as the pergola has been in place for approximately ten (10) years and the removal would require the destruction of surrounding vegetation. The pergola is designed to be incorporated with vegetation and provide additional screening for the dwelling.
- Given the existing nature of the pergola, the undue hardship is not shared generally by other properties in the same zoning district and in the same vicinity.
- The granting of the variance will alleviate the property owner from the hardship of removing the pergola that has existed for approximately ten (10) years. Under separate cover, the Applicant filed a special permit application requesting approval of an accessory dwelling unit. Prior to the submission of the special permit application, the Applicant believed, in good faith, that the pergola was in compliance with the Ordinance.
- The authorization of the variance will not be detrimental to adjacent properties. The surrounding properties are developed with single family dwellings and the pergola is harmonious with the design of the dwelling.
- The character of the zoning district will not be changed by the granting of this variance.
- The proposed variance is in harmony with the intended spirit and purpose of the Ordinance and will not be contrary to the public interest. The stated purpose of the R-3 zoning district is to provide for single family detached dwellings to maintain the low density residential character of the district. The Applicant's request is in keeping with this objective.

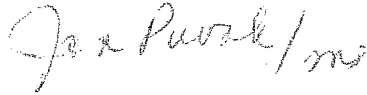
To the best of the Applicant's knowledge the Subject Property contains no hazardous or toxic substances. Except as otherwise noted, the proposed use conforms to the provisions of all applicable ordinances, regulations and adopted standards.

I would appreciate the acceptance of this application and the related special permit and the scheduling of a hearing before the Board of Zoning Appeals at your earliest convenience.

Should you have any questions regarding this request, or require additional information, please do not hesitate to contact me.

Very truly yours,

WALSH, COLUCCI, LUBELEY, EMRICH & WALSH, P.C.

A handwritten signature in cursive script, appearing to read "Jon Puvak / ms".

Jonathan D. Puvak

cc: Sally Coler
Lynne J. Strobel

{A0541433.DOCX / 1 Variance Statement of Justification 007800 000002}



**WALSH COLUCCI
LUBELEY EMRICH
& WALSH PC**

Jonathan D. Puvak
(703) 528-4700 Ext. 5455
jpuvak@arl.thelandlawyers.com

RECEIVED
Department of Planning & Zoning

NOV 13 2012

November 13, 2012

Zoning Evaluation Division

Via Hand Delivery

Virginia Ruffner
Zoning Evaluation Division
Fairfax County Department of Planning & Zoning
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035-5505

Re: Proposed Special Permit Application
Applicant: Sally Coler
Temporary Application # SP 2012-0232

Dear Ms. Ruffner:

I am in receipt of your letter dated October 26, 2012 that identifies certain deficiencies associated with the referenced application. In response to your comments, I have enclosed the following materials:

- A revised statement of justification.
- Printed color photographs of the application property. The photographs include pictures of the trellis located in front of the dwelling.
- A floorplan with dimensions of the accessory dwelling unit.

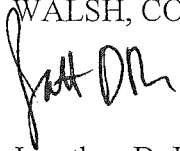
I trust that the enclosed materials adequately address the items noted as deficient in your letter, and the application may be accepted for processing. Should you have any questions regarding this submission, or require additional information, please do not hesitate to contact me.

As always, I appreciate your assistance.

Page 2

Very truly yours,

WALSH, COLUCCI, LUBELEY, EMRICH & WALSH, P.C.

A handwritten signature in black ink, appearing to read "Jonathan D. Puvak". The signature is stylized with a large initial "J" and a long, sweeping underline.

Jonathan D. Puvak

Enclosures

cc: Sally Coler
Lynne J. Strobel

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Jonathan D. Puvak
(703) 528-4700 Ext. 5455
jpuvak@arl.thelandlawyers.com
Fax: (703) 528-6050

**WALSH COLUCCI
LUBELEY EMRICH
& WALSH PC**

RECEIVED
Department of Planning & Zoning

NOV 13 2012

Zoning Evaluation Division

REVISED

November 13, 2012

Via Hand Delivery

Barbara C. Berlin, Director
Fairfax County Department of Planning & Zoning
Zoning Evaluation Division
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035

Re: Special Permit Application
Fairfax County Tax Map Reference: 82-3 ((14)) (K) 23 (the "Subject Property")
Applicant: Sally Coler

Dear Ms. Berlin:

Please accept this letter as a statement of justification to accompany a Special Permit application requesting an existing accessory dwelling unit on the Subject Property.

The Subject Property is located at 6401 Hayfield Place in the Rose Hill Farm subdivision. Surrounding development consists primarily of established residential developments. The Subject Property is zoned to the R-3 District, and is located in the Lee Magisterial District.

The Applicant proposes an accessory dwelling unit in accordance with the conditions of Section 8-918 of the Fairfax County Zoning Ordinance (the "Zoning Ordinance"). The Subject Property is currently improved with a single-family detached dwelling (the "Principal Dwelling") and an attached accessory dwelling unit. The Principal Dwelling was constructed in 1954 and is approximately 2,552 square feet. The Principal Dwelling is owned and occupied by the Applicant, who is over fifty-five years of age. The accessory dwelling unit is a two-story, one bedroom structure located within the Principal Dwelling with external entrances located to the side and rear of the accessory dwelling unit. The interior of the accessory dwelling includes a living area, bedroom and full bathroom. The accessory dwelling unit was constructed in 2005 and, to the best of the Applicant's knowledge, was constructed to meet all Fairfax County regulations for building, safety, health and sanitation. The design of the accessory dwelling unit is similar to the Principal Dwelling and in harmony with the surrounding development. The gross floor area of the accessory dwelling is 872 square feet which does not exceed thirty-five (35) percent of the Principal Dwelling. Parking is provided in a carport and driveway and is sufficient to accommodate the Principal Dwelling and the accessory dwelling unit.

The Applicant relies on the use of the accessory dwelling unit to retain her independence and continue to live in Fairfax County. The Applicant's proposal is consistent with the Board of

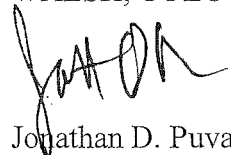
Supervisors' adopted policy on accessory dwelling units that is included as Appendix 5 to the Zoning Ordinance. As the accessory dwelling is existing, no construction or land disturbance is proposed by this application.

To the best of the Applicant's knowledge the Subject Property contains no hazardous or toxic substances. Except as otherwise noted, the proposed use conforms to the provisions of all applicable ordinances, regulations and adopted standards.

Should you have any questions, or require additional information, please do not hesitate to give me a call. I would appreciate the acceptance of this application and the scheduling of a hearing before the Board of Zoning Appeals at your earliest convenience. As always, I appreciate your cooperation and assistance.

Very truly yours,

WALSH, COLUCCI, LUBELEY, EMRICH & WALSH, P.C.

A handwritten signature in black ink, appearing to read 'Jonathan D. Puvak', is written over the printed name.

Jonathan D. Puvak

cc: Sally Coler
Lynne J. Strobel



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County.

NOTICE OF VIOLATION

DATE OF ISSUANCE: August 15, 2012

SHERIFF'S LETTER

CASE #: 201204302 **SR#:** 84732

SERVE: Sally A. Coler
6401 Hayfield Place
Alexandria, Virginia 22310

LOCATION 6401 Hayfield Place
OF VIOLATION Alexandria, Virginia 22310-2818
Rose Hill Farm, Section 1, Block K, Lot 23
Tax Map #: 82-3 ((14)) (K) 23
Zoning District: R-3

Dear Property Owner:

An investigation of the above referenced property on August 8, 2012 revealed the following violations of the Fairfax County Zoning Ordinance.

§ 2-501 Limitation on the Number of Dwelling Units on a Lot:

The investigation revealed there are two (2) complete and separate dwellings in this single family dwelling unit on the above-referenced property. Part 3 of Article 20 of the Zoning Ordinance defines a dwelling unit as:

One (1) or more rooms in a residential building or residential portion of a building which are arranged, designed, used, or intended for use as a complete, independent living facility which includes provisions for living, sleeping, eating, cooking and sanitation. Occupancy shall be in accordance with the provisions of Sect. 2-502.

Therefore, the presence of more than one dwelling unit on the above-referenced property is in violation of Sect. 2-501 of the Zoning Ordinance which states, in part:

Department of Code Compliance
12055 Government Center Parkway, Suite 1016
Fairfax, Virginia 22035-5508
Phone 703-324-1300 FAX 703-324-9346
www.fairfaxcounty.gov/code

There shall be not more than one (1) dwelling unit on any one (1) lot, nor shall a dwelling unit be located on the same lot with any other principal building....

You are hereby directed to clear this violation within thirty (30) days of the date of this notice. Compliance can be achieved as follows:

- Removing, on a permanent basis, all interior door locks that prevent the free and unfettered access to all common living areas or which may separate different levels of the structure; and
- Removing, on a permanent basis, all but one kitchen located in the dwelling to include: the ovens, microwave, ranges, sinks, cabinets, countertops, refrigerators, and freezers or combinations thereof; all other appliances and accoutrements used or intended for use for cooking or eating, and all plumbing, electrical, and gas connections and piping; and
- Applying for and obtaining approval from the Fairfax County Building Official (12055 Government Center Parkway, Second Floor, Permit Application Center) for a valid demolition permit for the removal of all electrical circuits, plumbing fixtures and piping and natural gas piping systems which were installed to establish the second kitchen in the dwelling unit at this property, and obtaining a passing final inspection of such demolition work; and
- Ceasing, on a permanent basis, the use of all but one (1) dwelling unit, on the property, and restoring the structure such that it contains no more than one (1) dwelling unit.

§ 10-102 (24) Outdoor Storage

§ 2-302 (6) Accessory Use must comply with Article 10:

An investigation has determined that you are allowing storage in the side and rear yards of the address listed above. These items consist of, but are not limited to, the following:

Construction equipment and material, automotive parts and related materials, and other miscellaneous items.

This outdoor storage:

Exceeds 100 square feet in area, and

Is not located in the rear half of the lot, and

Is not screened from view from the first story window of any neighboring dwelling.

This outdoor storage is violation of Par. 24 of Sect. 10-102 of the Fairfax County Zoning Ordinance that states in part:

Storage, outdoor in R districts, provided such storage is located on the rear half of the lot, is screened from the view from the first story window of any neighboring dwelling, and the total area for such outdoor storage does not occupy more than 100 square feet.

Therefore, you are in violation of Par. 6 of Sect. 2-302 of the Zoning Ordinance that states:

No accessory structure or use, as defined in Article 20, shall hereafter be built, moved, remodeled, established, altered or enlarged unless such accessory structure or use complies with the provisions of Part 1 of Article 10.

You are hereby directed to clear this violation within thirty (30) days of the date of this Notice. Compliance can be accomplished by the following:

- Removing all outdoor storage from this lot; or
- Relocation of the outdoor storage to the rear half of the lot, and
- Screening it from the view from the first story window of any neighboring dwelling, and
- Limiting it to a total area not exceeding 100 square feet.

A follow-up investigation will be made at the expiration of the time period outlined in this Notice. Failure to comply with the Notice will result in the initiation of appropriate legal action to gain compliance with the Zoning Ordinance which can result in court ordered sanctions.

You may have the right to appeal this Notice of Zoning Violation within thirty (30) days of the date of this letter in accordance with Sec. 15.2-2311 of the Code of Virginia. This decision shall be final and unappealable if it is not appealed within such thirty (30) days. Should you choose to appeal, the appeal must be filed with the Zoning Administrator and the Board of Zoning Appeals (BZA) in accordance with Part 3 of Article 18 of the Fairfax County Zoning Ordinance. Those provisions require the submission of an application form, a written statement setting forth the decision being appealed, the date of decision, the grounds for the appeal, how the appellant is an aggrieved party and any other information that you may wish to submit and a \$600.00 filing fee. Once an appeal application is accepted, it will be scheduled for public hearing and decision before the BZA.

Should you have any questions or need additional information, please do not hesitate to contact me at (703) 324-4375 or (703) 324-1300.

Sincerely,

Al Sanchez
Code Compliance Investigator

8-006 General Standards

In addition to the specific standards set forth hereinafter with regard to particular special permit uses, all special permit uses shall satisfy the following general standards:

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.
2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
5. In addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13.
6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.
7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.
8. Signs shall be regulated by the provisions of Article 12; however, the BZA, under the authority presented in Sect. 007 below, may impose more strict requirements for a given use than those set forth in this Ordinance.

8-903 Standards For All Group 9 Uses

In addition to the general standards set forth in Sect. 006 above, all Group 9 special permit uses shall satisfy the following standards:

1. All uses shall comply with the lot size and bulk regulations of the zoning district in which located, except as may be qualified below.
2. All uses shall comply with the performance standards specified for the zoning district in which located.
3. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans, or other appropriate submission as determined by the Director.

8-918

Additional Standards for Accessory Dwelling Units

As established by the Fairfax County Board of Supervisors' Policy on Accessory Dwelling Units (Appendix 5), the BZA may approve a special permit for the establishment of an accessory dwelling unit with a single family detached dwelling unit but only in accordance with the following conditions:

1. Accessory dwelling units shall only be permitted in association with a single family detached dwelling unit and there shall be no more than one accessory dwelling unit per single family detached dwelling unit.
2. Except on lots two (2) acres or larger, an accessory dwelling unit shall be located within the structure of a single family detached dwelling unit. Any added external entrances for the accessory dwelling unit shall be located on the side or rear of the structure.

On lots two (2) acres or greater in area, an accessory dwelling unit may be located within the structure of a single family detached dwelling unit or within a freestanding accessory structure.
3. The gross floor area of the accessory dwelling unit shall not exceed thirty-five (35) percent of the total gross floor area of the principal dwelling unit. When the accessory dwelling unit is located in a freestanding accessory structure, the gross floor area of the accessory dwelling unit shall not exceed thirty-five (35) percent of the gross floor area of the accessory freestanding structure and the principal dwelling unit.
4. The accessory dwelling unit shall contain not more than two (2) bedrooms.
5. The occupancy of the accessory dwelling unit and the principal dwelling unit shall be in accordance with the following:
 - A. One of the dwelling units shall be owner occupied.
 - B. One of the dwelling units shall be occupied by a person or persons who qualify as elderly and/or disabled as specified below:
 - (1) Any person fifty-five (55) years of age or over and/or
 - (2) Any person permanently and totally disabled. If the application is made in reference to a person because of permanent and total disability, the application shall be accompanied by a certification by the Social Security

Administration, the Veterans Administration or the Railroad Retirement Board. If such person is not eligible for certification by any of these agencies, there shall be submitted a written declaration signed by two (2) medical doctors licensed to practice medicine, to the effect that such person is permanently and totally disabled. The written statement of at least one of the doctors shall be based upon a physical examination of the person by the doctor. One of the doctors may submit a written statement based upon medical information contained in the records of the Civil Service Commission which is relevant to the standards for determining permanent and total disability.

For purposes of this Section, a person shall be considered permanently and totally disabled if such person is certified as required by this Section as unable to engage in any substantial gainful activity by reasons of any medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of the person's life.

- C. The accessory dwelling unit may be occupied by not more than two (2) persons not necessarily related by blood or marriage. The principal single family dwelling unit may be occupied by not more than one (1) of the following:
 - (1) One (1) family, which consists of one (1) person or two (2) or more persons related by blood or marriage and with any number of natural children, foster children, step children or adopted children.
 - (2) A group of not more than four (4) persons not necessarily related by blood or marriage.
- 6. Any accessory dwelling unit established for occupancy by a disabled person shall provide for reasonable access and mobility as required for the disabled person. The measures for reasonable access and mobility shall be specified in the application for special permit. Generally, reasonable access and mobility for physically disabled persons shall include:
 - A. Uninterrupted access to one (1) entrance; and
 - B. Accessibility and usability of one (1) toilet room.

7. The BZA shall review all existing and/or proposed parking to determine if such parking is sufficient to meet the needs of the principal and accessory dwelling units. If it is determined that such parking is insufficient, the BZA may require the provision of one (1) or more off-street parking spaces. Such parking shall be in addition to the requirements specified in Article 11 for a single family dwelling unit.
8. The BZA shall determine that the proposed accessory dwelling unit together with any other accessory dwelling unit(s) within the area will not constitute sufficient change to modify or disrupt the predominant character of the neighborhood. In no instance shall the approval of a special permit for an accessory dwelling unit be deemed a subdivision of the principal dwelling unit or lot.
9. Any accessory dwelling unit shall meet the applicable regulations for building, safety, health and sanitation.
10. Upon the approval of a special permit, the Clerk to the Board of Zoning Appeals shall cause to be recorded among the land records of Fairfax County a copy of the BZA's approval, including all accompanying conditions. Said resolution shall contain a description of the subject property and shall be indexed in the Grantor Index in the name of the property owners.
11. The owner shall make provisions to allow inspections of the property by County personnel during reasonable hours upon prior notice.
12. Special permits for accessory dwelling units shall be approved for a period not to exceed five (5) years from the date of approval; provided, however, that such special permits may be extended for succeeding five (5) year periods in accordance with the provisions of Sect. 012 above.
13. Notwithstanding Par. 5 of Sect. 9-012, any accessory dwelling unit approved prior to July 27, 1987 and currently valid may be extended in accordance with the provisions of this Section and Sect. 012 above.

18-404 Required Standards for Variances

To grant a variance the BZA shall make specific findings based on the evidence before it that the application satisfies all of the following enumerated requirements:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property; or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purposes of this Ordinance and will not be contrary to the public interest.

18-405 Conditions

Upon a determination by the BZA that the applicant has satisfied the requirements for a variance as set forth in Sect. 404 above, the BZA shall then determine the minimum variance that would afford relief. In authorizing such variance the BZA may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be met.